**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929**

**WP(C).No. 18264 of 2007(Y)**
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**PETITIONERS:**
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**1. S.CHANDRIKA, W/O. LATE S.SANATHANAN,**
**THIRUMONVILAKAM, ARUMANOOR, POOVAR P.O.,**
**THIRUVANANTHAPURAM.**

**2. S.RAJESH, S/O. LATE S.SANATHANAN,**
**THIRUMONVILAKAM, ARUMANOOR, POOVAR P.O.,**
**THIRUVANANTHAPURAM.**

**3. C.RAJI, D/O. LATE S.SANATHANAN,**
**THIRUMONVILAKAM, ARUMANOOR, POOVAR P.O.,**
**THIRUVANANTHAPURAM.**

**BY ADV. SRI.MURALI PURUSHOTHAMAN**
**SRI.DEEPU LAL MOHAN**

**RESPONDENTS:**
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**1. KERALA STATE ROAD TRANSPORT CORPORATION,**
**REPRESENTED BY ITS MANAGING DIRECTOR,**
**TRANSPORT BHAVAN, THIRUVANANTHAPURAM.**

**2. STATE OF KERALA, REPRESENTED BY**
**THE SECRETARY TO GOVERNMENT.**
**DEPARTMENT OF TRANSPORT, GOVERNMENT SECRETARIAT,**
**THIRUVANANTHAPURAM.**

**R1 BY ADV. SHRI JOHNSON P. JOHN, SC, KSRTC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**K. M. JOSEPH, J.**

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**W.P.C. NO. 18264 OF 2007 Y**

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**Dated this the 14th June, 2007**

**JUDGMENT**

Case of the petitioners, in brief, is as follows:

Petitioners are the sole legal heirs of one Shri S. Sanathanan, who was working as Conductor in the KSRTC on provisional basis from 1979 - 1980 and his service was regularised as per Ext.P1 Government Order. He retired on 31.5.2004. Petitioners, on these allegations, contend that as per the decision of this Court in Idicula Abraham v. KSRTC & Others (2005 (2) KLJ 602), the provisional service rendered upto 1.10. 1994 is liable to be counted for the purpose of pensionary benefits along with regular service from 8.3.2001. The provisional service was not counted for quantifying pensionary benefits, is the complaint of petitioners. They have approached this Court seeking a Writ of Mandamus declaring that the provisional service rendered by Shri S. Sanathanan in the Corporation is liable to be counted along with his regular

service for the purpose of quantifying pensionary benefits and also to direct the first respondent to disburse to the petitioners all the pensionary benefits including monthly pension, commuted value of pension, DCRG and family pension that is due to Shri S. Sanathanan by r3eckoning the service rendered by him as provisional employee in the Corporation along with his regular service. A further direction is also sought to count the provisional service rendered by Shri S. Sanathanan in the Corporation before 1.10.1994 along with his regular service for the purpose of fixation of pay, granting pensionary benefits, weightage and other service benefits.

2. I heard the learned counsel for the petitioners and also the learned standing counsel appearing on behalf of the respondent Corporation. Counsel for petitioners points out that Ext.P14 issued by the Department of Radiotherapy and Oncology, Medical College, Thiruvananthapuram shows that the first petitioner is undergoing treatment for Multiple Myeloma Stage III and therefore she is incurring huge expenses for the

treatment. He would, therefore, contend that apart from directing counting of provisional service be considered upto 1.10.1994 for the purpose of pension along with the regular service, this Court may deviate from the principle of seniority in the matter of DCRG and Commuted value of pension in the peculiar facts of this case. After having heard the learned counsel appearing for the parties, the Writ Petition is disposed of as follows:

The provisional service rendered by the first petitioner's husband upto 1.10.1994 shall be reckoned for the purpose of calculating pensionary benefits. The amount due as Provident Fund with statutory interest and Staff Welfare Fund will be disbursed to the petitioners within a period of ten weeks from the date of receipt of a copy of this Judgment. In the facts of this case, there will be a further direction to the first respondent to disburse either the DCRG or the Commuted value of pension whichever is higher to the petitioners within a period of ten weeks from the date of receipt of a copy of this Judgment. The

first respondent shall also pay the arrears of pension and family pension, if any payable, to the first petitioner within a period of three weeks from the date of receipt of a copy of this Judgment.

**K. M. JOSEPH, JUDGE**

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